

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES CURTIS, Inmate #B-30130,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 06-401-MJR
)	
ROGER PELKER, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

The Court previously denied Plaintiff's request for leave to proceed *in forma pauperis*, finding that he had accumulated three or more strikes (*see* Doc. 5). *See* 28 U.S.C. § 1915(g). Now before the Court is Plaintiff's motion to reconsider that ruling (Doc. 6). In this motion, he claims that one of the cases listed by the Court should not be counted as a strike. He attaches documentation to support this argument, and Plaintiff is correct – *Curtis v. Salazar*, Case No. 03-cv-9066 (N.D. Ill., filed Jan. 29, 2004), was dismissed for failure to exhaust his administrative remedies, not for failure to state a claim, and thus it does not count as one of his three allotted strikes. Accordingly, the instant motion (Doc. 6) is **GRANTED**.

IT IS HEREBY ORDERED that the order denying Plaintiff's motions to proceed *in forma pauperis* (Doc. 5) is **VACATED**.

IT IS FURTHER ORDERED that the motions for leave to proceed *in forma pauperis* (Docs. 2, 4) are **GRANTED**.

Pursuant to 28 U.S.C. § 1915(b), **IT IS FURTHER ORDERED** that Plaintiff shall pay the

\$350.00 filing fee applicable to this civil action as follows:

1. Plaintiff shall pay an initial partial filing fee of **\$ 4.04**. *See* 28 U.S.C. § 1915(b)(1). The agency having custody of Plaintiff is **DIRECTED** to transmit this amount from Plaintiff's prison trust fund account to the Clerk of Court upon receipt of this Memorandum and Order.
2. Plaintiff shall make monthly payments of 20% of the preceding month's income credited to Plaintiff's prison trust fund account until the filing fee is paid in full.
3. The agency having custody of Plaintiff shall forward payments from Plaintiff's account to the Clerk of this Court each time the amount in the account exceeds \$10 until the filing fee is paid. Payments shall be mailed to: Clerk of the Court, United States District Court for the Southern District of Illinois, P.O. Box 249, East St. Louis, Illinois 62202.

IT IS FURTHER ORDERED that if judgment is rendered against Plaintiff, and the judgment includes the payment of costs under Section 1915, Plaintiff will be required to pay the full amount of the costs, notwithstanding that his application to proceed *in forma pauperis* has been granted. *See* 28 U.S.C. § 1915(f)(2)(A).

Plaintiff is **ADVISED** of his continuing obligation to keep the Clerk informed of any change in his whereabouts during the pendency of this action. This notification shall be done in writing and not later than seven (7) days after a transfer or other change in address occurs.

The Clerk is **DIRECTED** to mail a copy of this Memorandum and Order to Plaintiff and to the Trust Fund Officer at the Stateville Correctional Center *upon entry of this Memorandum and Order*.

IT IS SO ORDERED.

DATED this 26th day of March, 2007.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge